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**IN THE HIGH COURT OF CHHATTISGARH AT
BILASPUR**

W.P. No.-----5143-----**of 2006.**

PETITIONER : Smt. Ilishwa Lakara, w/o Mahendra
Gupta, aged about- 45 years, R/o Tahsil
Pratappur, District Surguja, Chhattisgarh.

P.R. No. 3172/06
Presented by Mr. P. Jaiswal
dated 15/01/06

VERSUS

RESPONDENTS : 1. State of Chhattisgarh through the
Secretary, Tribal Development
Department, D.K.S. Bhawan, Mantralaya
Raipur, (C.G.)

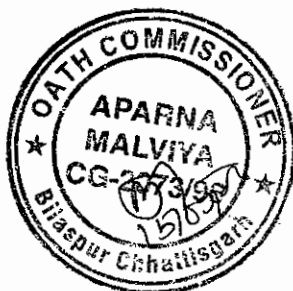
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2. The Assistant Commissioner, Tribal
Welfare Department Ambikapur, District
Surguja, Chhattisgarh.

3. The Collector, Ambikapur, District-
Surguja, Chhattisgarh.

4. The Chief Executive officer, Zila
Panchyat Ambikapur, District Surguja,
Chhattisgarh.

5. The Block Education officer, Surguja,
District- Surguja Chhattisgarh.



WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice Satish K. Agnihotri.

W. P. (S) No. 5143 of 2006

Petitioner : Smt. Ilishwa Lakara

Versus

Respondents : State of Chhattisgarh & others

Shri R.K. Jaiswal, Advocate for the petitioner.

Shri Sumesh Bajaj, Government Advocate for the
State/respondents.

ORDER
(21st September, 2006)

1. Earlier, the petitioner had filed a writ petition being W.P. No. 3475/2004, challenging the validity of the transfer order dated 31.07.2004 (Annexure P/9) whereby the petitioner was transferred from the Post Metric Girls Hostel, Pratappur District Surguja to Middle School, Kanchanpur, Premnagar, District Surguja this Court.
2. After hearing both the parties, this Court had held that there was no justification in interfering with the transfer order dated 31.07.2004. With regard to the payment of arrears to the petitioner which was with-held, it was observed by this Court that on the basis of admission made by the respondents

that the absent period would be regularized, if necessary application is made by the petitioner for regularization.

3. The petitioner has filed this petition seeking a direction to the respondents to release salary from June 2003 to December 2003 and July 2004 to 08.01.2005, which was considered and decided in earlier petition in W.P. No. 3475/2004.
4. The Supreme Court in the case of State of Karnataka and another Vs. All India Manufacturers Organisation and others¹ has observed as under:-

"32. Res judicata is a doctrine based on the larger public interest and is founded on two grounds: one being the maxim nemo debet bis vexari pro una et eadem causa (no one ought to be twice vexed for one and the same cause²) and second, public policy that there ought to be an end to the same litigation³. It is well settled that Section 11 of the Civil Procedure Code, 1908 (hereinafter "CPC") is not the foundation of the principle of res judicata, but merely statutory recognition thereof and hence, the section is not to be considered exhaustive of the general principle of law⁴. The main purpose of the doctrine is that once a matter has been determined in a former proceeding, it should not be open to parties to reagitate the matter again and again. Section 11 CPC recognises this principle and forbids a court from trying any suit or issue, which is res judicata, recognizing both "cause of action estoppel" and "issue estoppel". There are two issues that we need to consider, one, whether the doctrine of res judicata, as a matter of principle, can be applied to public interest

litigations and second, whether the issues and findings in Somashekar Reddy¹ constitute res judicata for the present litigation."

5. In the facts and circumstances of the case, the principle of res judicata is squarely applicable to the present case, thus, this petition cannot be entertained on this ground alone.
6. Accordingly, the writ petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash

1. [(2006) 4 SCC 683]